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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,653	12/20/2001	James M. Vignoles	NAI1P048/01.183.01	2731
28875	7590	09/21/2005		
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			EXAMINER PYZOCHA, MICHAEL J	
			ART UNIT 2137	PAPER NUMBER
DATE MAILED: 09/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,653

Applicant(s)

VIGNOLES ET AL.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02192002.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

1. Claims 1-29 are pending.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11, 23-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The above claims relate merely to abstract ideas that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by ConSeal PC FIREWALL Technical Summary (hereinafter ConSeal).

As per claim 24, ConSeal discloses identifying a set of policies each having an associated security action and a limit for triggering the security action; determining whether the limits are met; executing the security actions of the policies whose associated limits are determined to be met; identifying currently executed security actions; determining whether a conflict exists between the currently executed security actions; and resolving any conflicts between the currently executed security actions (see pages 1-2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-10, 12-21, 23, 25-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over ConSeal PC FIREWALL Technical Summary (hereinafter ConSeal) and further in view of Beebe et al (US 20010014150).

As per claims 1, 12 and 23, ConSeal discloses identifying a set of policies, each policy having a condition associated therewith; determining whether the conditions are met; and activating the policies whose associated conditions are determined to be met (see pages 1-2).

ConSeal fails to disclose the conditions represent a priority of the policy.

However, Beebe et al teaches the use of priority (see paragraph 226).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Beebe et al's priority in the firewall system of ConSeal.

Motivation to do so would have been to avoid conflicts (see paragraph 226).

As per claims 2-3 and 13-14, the modified ConSeal and Beebe et al system discloses activating the policies if the user confirms (see page 2).

As per claims 4-5 and 15-16, the modified ConSeal and Beebe et al system discloses updating includes receiving another

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inactive policy, determining whether the user accepts the inactive policy, and adding the inactive policy to the set if the user accepts the inactive policy (see paragraph 227 with the user acceptance of ConSeal page 2).

As per claims 6 and 17, the modified ConSeal and Beebe et al system discloses the activation of the policies includes adding the policies to a set of a plurality of active policies, and executing security actions associated with the active policies if associated limits are met (see pages 1-2).

As per claims 7 and 18, the modified ConSeal and Beebe et al system discloses determining whether the conditions associated with the active policies are still met, and deactivating the active policies if the associated conditions are not met (see bottom of page 1 to the top of page 2).

As per claims 8 and 19, the modified ConSeal and Beebe et al system discloses identifying currently executed security actions, determining whether a conflict exists between the currently executed security actions, and resolving any conflicts between the currently executed security actions (see pages 1-2 and paragraph 226).

As per claims 9 and 20, the modified ConSeal and Beebe et al system discloses the conditions include a time factor (see

page 2 where "when a specific application is running" is a time factor).

As per claims 10 and 21, the modified ConSeal and Beebe et al system discloses the conditions include a source of the policies (see paragraph 227).

Claims 25-27 and 29 contain similar limitations as the above rejected claims and are therefore similarly rejected.

7. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal and Beebe et al system as applied to claims 1 and 12 above, and further in view of Porras et al (US 6704874).

As per claims 11 and 22, the modified ConSeal and Beebe et al system fails to disclose the conditions include a severity of the security actions associated with the policies.

However, Porras et al teaches such a prioritization technique (see column 2 lines 46-51 where a more severe of the attack requires a more severe action).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Porras et al's prioritization teaching in the modified firewall system of ConSeal and Beebe et al.

Motivation to do so would have been to allow for a tag to be included to relate the severity.

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8. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal and Beebe et al system as applied to claim 1 above, and further in view of Brock et al (US 20030110393).

As per claim 28, the modified ConSeal and Beebe et al system fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated.

However, Brock et al teaches such a priority based on urgency (see paragraph 5).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Brock et al's teaching of urgency based priority in the modified firewall system of ConSeal and Beebe et al.

Motivation to do so would have been to alert the network administrator.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Toombs and Mien disclose further information about ConSeal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner

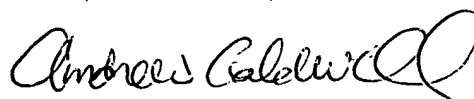


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can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER

MJP